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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,274

04/07/2005

James John Schmitt

ACA6276PIUS

4986

7590

05/31/2006

Ralph J Mancini
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EXAMINER

MCNELIS, KATHLEEN A

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/525,274	Applicant(s) SCHMITT ET AL.	
	Examiner Kathleen A. McNelis	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07 April 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

Claims Status

Claims 1-6 remain for examination wherein claims 1, 3 and 4 are amended.

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Chinese patent No. 1153218 (CN '218)¹.

CN '218 discloses a method for producing high temperature oxidized iron ore pellets using an additive of bentonite, carboxymethyl cellulose, boric acid, and boron sludge (abstract). Calcium fluoride (i.e. fluorite) is also added (claim 3). The pellets are made by mixing raw materials containing iron with an additive and manually or mechanically mixing to achieve uniformity then dried, preheated, calcined soaked and cooled (pg. 3 of translation).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

¹ Rejection is based on English translation by USPTO translator Irina Knizhnik.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese patent No. 1153218 (CN '218)¹.

CN '218 discloses a method for producing high temperate oxidized iron ore pellets using an additive of bentonite, carboxymethyl cellulose, boric acid, and boron sludge (abstract). Calcium fluoride (i.e. fluorite) is also added (claim 3). The pellets are made by mixing raw materials containing iron with an additive and manually or mechanically mixing to achieve uniformity then dried, preheated, calcined soaked and cooled (pg. 3 of translation). Examiner contends that the binder is substantially free of hydrophobic liquid since CN '218 teaches that it contains up to 15% moisture (1st ¶ of p. 3 of translation). In examples, calcine temperatures ranged from 1150 to 1200 °C (Table 3 p. 5 of translation). It is the examiner's position that the applicant has not established the criticality of the claimed temperature range of 1275 to 1350 °C and that the range of 1150 to 1200 °C is close enough to the claimed range of 1275 to 1350 °C that one of ordinary skill in the art would expect the same properties to result (see M.P.E.P § 2144.05 regarding close ranges). Further, it is well settled that where the principal difference between a

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claimed process and that taught by reference is a temperature difference, it is incumbent upon applicants to establish the criticality of that difference (Ex parte Khusid, et al., 174 USPQ 59).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese patent No. 1153218 (CN '218)¹ as applied to claim 1 and in further view of Morris (U.S. Pat. No. 6,689,184).

CN '218 is applied as discussed above regarding the 35 U.S.C. 103(a) rejection of claims 1, 2 and 4.

CN '218 does not teach that sodium borate is added to the pellets.

Morris teaches a method for molding and forming rust-prone iron based powders (abstract). Morris teaches that the sodium borate functions as a pH buffer to inhibit corrosion (rusting) of iron (col. 3 lines 1-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use sodium borate as a additive as taught by Morris in the binder composition of CN '218 to inhibit corrosion as taught by Morris, which one of ordinary skill in the art would expect to benefit both the pellets and the equipment used for blending and pelletization.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen A. McNelis whose telephone number is 571 272 3554. The examiner can normally be reached on M-F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ROY KING
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700